

VILLAGE GREEN DEVELOPMENT AGREEMENT

BY AND BETWEEN

CITY OF CHARLESTON, SOUTH CAROLINA

AND

HPH PROPERTIES, LP

_____, 2015

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AND
HPH PROPERTIES, LP**

This DEVELOPMENT AGREEMENT (together with the Exhibits attached hereto, the "Agreement") is entered into effective as of the _____ day of _____, 2015 (the "Effective Date") by and between the City of Charleston, a political subdivision of the State of South Carolina (the "City"), and HPH Properties, LP, a South Carolina limited partnership (the "Developer").

The City and the Developer are sometimes separately referred to in this Agreement as a "Party" or jointly referred to as the "Parties."

WHEREAS, on _____, 2008, the City entered into a Development Agreement (the "2008 Development Agreement"), as authorized by S.C.Code Ann. § 6-31-10, *et seq*, with Developer to the use and development of approximately 299 gross acres of land located in the West Ashley area of the City, as more fully described therein, the same being of record in the RMC Office for Charleston County in Book __ , at page ____; and

WHEREAS, the 2008 Development Agreement has expired and the parties deem it in their respective interests to enter into a new development agreement.

NOW THEREFORE, in consideration of the the sum of three (\$3.00) dollars, the sufficiency of which is acknowledged, the premises hereof and and the mutual benefits to the Parties, the Parties agree as follows:

**ARTICLE 1
THE PROPERTY AND DEVELOPMENT PLAN**

1.1 HPH Properties, LP owns six (6) tracts of land in the West Ashley area of Charleston County comprising approximately two hundred ninety-nine (299) gross acres. The 6 tracts identified by reference to the Charleston County Tax Maps are:

- (1) TMS No. 301-00-00-033 consisting of 33.21 acres, more or less; and
- (2) TMS No. 301-00-00-042 consisting of 19.65 acres, more or less; and
- (3) TMS No. 301-00-00-043 consisting of 242.89 acres, more or less; and
- (4) TMS No. 301-00-00-054 consisting of 1.79 acres, more or less; and
- (5) TMS No. 301-00-00-057 consisting of .86 acres, more or less; and

(6) TMS No. 301-00-00-114 consisting of .37 acres, more or less.

The 6 tracts of land are located in the City of Charleston and are hereinafter referred to as "Project or Village Green".

1.2 The Project will be developed pursuant to a development plan (the "Regulating Plan") and "Development Standards".

1.3 The Regulating Plan is attached hereto as Exhibit E and sets forth the zoning and land uses for the Project, and the Development Standards that apply to the Project is attached hereto as Exhibit F.

1.4 "Long Savannah" is a contiguous parcel of property consisting of approximately one thousand two hundred twenty-six (1,226) acres of land adjacent to and east of Village Green that is part of the planning area and subject to this Regulating Plan and Development Standards .

1.5 The Regulating Plan addresses all areas of land planning and uses for Village Green and Long Savannah combined as one planning area.

ARTICLE 2 RECITALS

This Agreement is predicated upon the following:

2.1 The Code of Laws of South Carolina (the "S.C. Code") Sections 6-31-10 through 6-31-160, as it exists on the Effective Date of this Agreement (the "Act"), enable cities to enter into binding development agreements with entities intending to develop property under certain conditions set forth in the Act.

2.2 The City, in accordance with the Act and the Code of the City of Charleston ("Charleston City Code"), conducted public hearings regarding its consideration of this Agreement on _____, 2015 and _____, 2015.

2.3 The City Council ("Council"), in accordance with the Act and Charleston City Code adopted Ordinance Number _____ on _____, 2015, determining that this Agreement is consistent with the Act and the Charleston City Code and amending the Planned Unit Development (PUD) originally adopted on _____, 1993 and thereafter amended on _____, 2008.

A copy of the Ordinance is attached hereto as Exhibit V.

ARTICLE 3 GENERAL PROVISIONS

3.1 Property

A. The Property which is subject of this Agreement consists of approximately two hundred ninety-nine (299) acres, 7.89 acres of which are wetlands and the remaining 291.11 acres, more or less, being highland, and includes all those pieces, parcels, and tracts of land in Charleston County, South Carolina identified on the Charleston County Tax Maps as TMS Nos. 301-00-00-033, 301-00-00-042, 301-00-00-043, 301-00-00-054, 301-00-00-057, and 301-00-00-114.

B. A Boundary Survey and Legal Description for the Property are attached hereto as Exhibit A.

3.2 Additions to Property

The Developer may notify the City from time to time of property proposed to be added to the legal description of the Property by the filing of a legal description of subsequently acquired properties with the City Clerk of Council; provided, however, that no other property shall be added to the Agreement unless this Agreement is duly amended by mutual agreement of the Parties and after compliance with Section 6-31-10 et seq of the S.C. Code.

3.3 Relationship of the Parties

This Agreement creates a contractual relationship between the Parties, and is not intended to create and does not create, the relationship of master/servant, principal/agent, independent contractor/employer, partnership, joint venture, or any other relationship where a party may be held responsible for acts of the other party.

3.4 Intent of Parties

A. The City and the Developer agree that the burdens of this Agreement bind, and the benefits of this Agreement shall inure to, each of them and to their successors in interest and in the case of the Developer, its successors in title and/or assigns.

B. The City and the Developer are entering into this Agreement in order to secure benefits and burdens referenced in the S.C. Code, Sections 6-31-10 et seq.

3.5 Legislative Act

A. This Agreement constitutes a legislative act of the City Council.

B. Council adopted this Agreement only after following procedures required by the Act. Any change in the standards established by this Agreement or to Laws pertaining to the same shall require the approval of Council, subject to compliance with applicable statutory procedures and consistent with Section A of Article 4.2.

C. This Agreement shall not be construed to create a debt of the City as referenced in S.C. Code, Section 6-31-145.

3.6 Duration of Agreement

A. This Agreement shall expire on the fifth (5th) anniversary of the Effective Date. The Developer represents and warrants that the Property contains approximately 291 acres of highland. .

C. The Parties agree to consider an extension, renewal or a new agreement no later than six (6) months prior to the expiration of this Agreement.

3.7 Amending or Canceling the Agreement

A. Subject to the provisions of S.C. Code, Section 6-31-80, this Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties in writing or by their successors in interest.

B. Any amendment to this Agreement shall comply with the provisions of the Act. Any portion of this Agreement requiring consent or approval of one of the Parties shall not require amendment of this Agreement unless the text expressly requires amendment. Wherever said consent or approval is required, the same shall not be unreasonably withheld.

C. A major modification of this Agreement shall occur only after public notice and a public hearing by the City.

3.8 Modifying or Suspending the Agreement

In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, the pertinent provisions of this Agreement shall be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

3.9 Annual Compliance Review

A. The Zoning Administrator (or successor officer) of the City, pursuant to S.C. Code, Section 6-31-90, shall review the Project and this Agreement annually in order to confirm that the Developer and the City have demonstrated good faith compliance with the terms of this Agreement.

B. If, as a result of its annual review, the City finds and determines that the Developer has committed a material breach of the terms or conditions of this Agreement, the City shall serve notice in writing to the Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding

and determination, and providing the Developer a reasonable time in which to cure the material breach.

C. If the Developer fails to cure any material breach within a reasonable time, then the City unilaterally may terminate or modify this Agreement; provided, that the City has first given the Developer the opportunity: (1) to rebut the City's findings and determination; or (2) to consent to amend this Agreement to meet the concerns of the City with respect to the findings and determinations.

ARTICLE 4 APPLICABLE LAND USE REGULATIONS

4.1 Consistency with Comprehensive Plan and Code of the City of Charleston

A. This Agreement is consistent with the City's Comprehensive Plan as amended as of the Effective Date..

B. Whenever express or implied substantive provisions of this Agreement are inconsistent with the applicable standards set forth in the Charleston City Code, the standards set forth in the Charleston City Code and the Development Standards set forth within this Agreement shall, to the extent possible, be considered *in pari materia* to give effect to both the Charleston City Code and this Agreement; provided, however, that in the event of a conflict, and subject to the provisions of S.C. Code, Section 6-31-80, the Development Standards set forth in this Agreement shall govern the Property.

C. In the event of a dispute between the Parties and this Agreement as to whether a provision in the Comprehensive Plan or Charleston City Code is inconsistent with express or implied substantive provisions of this Agreement, either Party may elect to move to Alternative Dispute Resolution – Nonbinding Mediation.

4.2 Applicable Land Development Regulations

A. Applicable Ordinances and Land Development Regulations. Except as otherwise provided by this Agreement or by the Act, the Ordinances applicable to Development of the Property are those in force at the Effective Date of this Agreement attached hereto as Exhibits E, F and T. The City may modify the Charleston City Code as it applies to the Property if the City complies with the procedures and conditions set forth in the S.C. Code, Section 6-31-80 (B).

B. Changes in City Procedure for Administering Charleston City Code. During the term of this Agreement, the City may modify procedures or composition of entities that review various matters under the City's Land Development Regulations. If a review entity identified in the Charleston City Code no longer exists, the parties shall agree upon an alternative review procedure. The alternative review procedure shall not be more demanding, restrictive or costly to the Developer than the procedures existing under the Charleston City Code at the Effective Date of this Agreement. Nothing herein

shall be construed to preclude the City from modifying development application fees and the same shall apply to Developer if such fees are applied city-wide.

C. Applying New City Land Development Regulations. In recognition of the fact that the City may, in the future, improve the City Land Development Regulations in existence at the Effective Date, the Developer may, but shall not be required to, notify the Director of Planning, Preservation, and Economic Innovation in writing that the Developer voluntarily elects to be bound by the modified provision(s), at such time thereafter, the modified provision shall apply to the Property and be considered part of the Charleston City Code.

4.3 Building Codes and Laws Other Than Land Development Regulations

A. The Developer, notwithstanding any provision which may be construed to the contrary in this Agreement, must comply with any building, housing, electrical, plumbing, fire, and gas codes subsequently adopted by the City or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. This Agreement shall not be construed to supersede or contravene the requirements of any building, housing, electrical, plumbing, fire, and gas codes subsequently adopted by the City or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. The provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend in any way the rights, duties and privileges of the City to exercise governmental powers and pass laws not applicable to development of the Property; including, but not limited to the power of eminent domain and the power to levy and collect taxes; provided, however, that Laws applicable to the Development of the Property shall be subject to Section A of Article 4.2.

B. Residential building permits will be limited each calendar year to the number of Residential Units set forth in Section A of Article 5.10 and Article 6 of this Agreement..

4.4 Permits for Development of the Property

A. The Development Permits needed to be approved to complete development of the Property include, but are not limited to site plan reviews, conditional use permits, public project reviews, zoning permits, construction permits and renewals, repair permits, emergency permits, road and drainage construction plan approvals, building permits, sign permits, certificate of occupancy permits, applications for exceptions or variances, appeals to the Board of Zoning Appeals, water and wastewater permits, SCDOT encroachment permits, SCDHEC-OCRM land disturbance permits, and other permits referenced in the Charleston City Code or as required by state or federal regulatory agencies.

B. The failure of this Agreement to address a particular permit, condition, term or restriction does not relieve the Developer of the necessity of complying with the

Charleston City Code or any applicable law governing such permitting requirements, conditions, terms, and restrictions.

C. The City agrees to cooperate and support the efforts of the Developer to obtain any and all required permits from state and federal regulatory agencies governing the development of the Property.

4.5 Development Fees

A. City of Charleston Impact Fees. The City agrees that the Developer shall not be subject to any additional impact fees other than those impact fees in effect as of the Effective Date of this Agreement, and the City further agrees that any increases in the existing impact fees and any new impact fees adopted by the City during the term of this Agreement shall not apply to the Property. Impact Fees in effect as of the Effective Date of this Agreement for residential uses are Environmental – \$82.00 per residential unit and Public Safety – \$79.00 per residential unit. Impact Fees for commercial uses are \$.04 per square foot.

B. Developer Commitments. The following summary of commitments has been made by the Developer during the term of this Agreement:

1. Transportation Contribution Fee – \$1,000 per Residential Unit;
2. School Contribution Fee – \$400 per Residential Unit;
3. Workforce Housing Provision;
4. Compliance with the City of Charleston's Minority Business Enterprise and Women's Business Enterprise Program

ARTICLE 5 DEVELOPMENT GUIDELINES

5.1 Vested Rights Governing the Development of the Property

The City agrees that the development shown on the Regulating Plan and as outlined in the Development Standards shall be developed as a Planned Unit Development, and that the Developer is entitled to develop the Property in accordance with the Regulating Plan attached hereto as Exhibit E and the Development Standards attached hereto as Exhibit F.

A. Development Standards. The criteria set forth in Exhibit F define items such as, but not limited to Transect Standards, Urban & Lot Standards, Landscape Standards, Signage & Lighting Standards, and Thoroughfare Standards (Street Types).

B. Permitted Uses. The permitted uses outlined in Section III of the Development Standards attached hereto as Exhibit F shall be vested as a matter of right within the Transect Zones depicted on the Regulating Plan attached hereto as Exhibit E.

C. Lot Types. The allowable lot types within each of the Transect Zones outlined in Section IV of the Development Standards shall be vested as a matter of right for the Transect Zones depicted on the Regulating Plan attached hereto as Exhibit E.

The specific mix of allowable lot types (minimum and maximum diversity of lot types) by Transect Zones are outlined in Section III of the Development Standards attached hereto as Exhibit F.

D. Residential Units. The total number of Residential Units, which may be defined as attached and/or detached residential units (single family and/or multi-family residential), herein collectively referred to as “Vested Units” to be vested by this Agreement and to be located solely within the Project property owned by the Developer, shall not exceed Fifteen Hundred (1,500) Residential Units.

The lot types that define an attached residential unit or a detached residential unit is outlined in the Mix of Uses Chart attached hereto as Exhibit G.

The Developer acknowledges and agrees to the residential density requirements established and outlined in Section III of the Development Standards attached to this Agreement as Exhibit F.

This limit on the minimum and maximum number of Residential Units does not pertain to rooms in inns or hotels within the Project property.

E. Non-Residential Uses. The total number of square feet of non-residential uses (commercial and office) vested by this Agreement and to be located solely within the Project property shall not exceed three hundred thousand (300,000) square feet of gross floor area. The maximum building size for a single retail business shall not exceed fifty thousand (50,000) square feet of gross floor area.

The Developer acknowledges and agrees to the minimum square footage requirements for non-residential uses (commercial and office) established and outlined in Section III of the Development Standards attached to this Agreement as Exhibit F.

F. Civic Uses. The civic uses vested by this Agreement and to be located solely within the Project property owned by the Developer may include Churches, Educational Institutions, Police, Fire, & EMS Stations, Libraries, and other permitted uses as outlined in the Development Standards attached hereto as Exhibit F.

G. Utility and Support Services. The utility and support services vested by this Agreement may include Water Supply Facilities, Sanitary Sewer Pump Stations, Electrical Substations, and other permitted uses as outlined in the Development Standards attached hereto as Exhibit F.

H. Flexibility of Transect Zones. The Regulating Plan attached hereto as Exhibit E and outlined in the Development Standards must maintain flexibility to accommodate specific soil conditions, environmental concerns, physical constraints, market conditions, and design parameters; accordingly, the location of the transect zones, boundary lines between transect zones, and the acreage of such transect zones shall be subject to modification as phases are submitted to the Technical Review Committee ("TRC"), each as defined below, for review over the term of this Agreement provided that the maximum and minimum number of residential units, maximum and minimum square footage requirements for non-residential uses, allowable lot types, and permitted uses shall be strictly adhered to as set forth in this Agreement.

5.2 Design Review for Development of the Property

A. Technical Review Committee (TRC). The City, as set forth and in accordance with the Administration Section of the Development Standards (Exhibit F), shall be responsible via the Technical Review Committee (TRC) (or successor staff committee) to facilitate, process, and administer development applications from the Developer.

B. Design Review Board (DRB). The Developer agrees that the City DRB (or successor board) will have jurisdiction over the review and approval of development plans involving non-residential uses for the T5 Transect Zone (Urban Center).

5.3 Open Space

This requirement is shown as Civic Space and Ponds on the Regulating Plan attached.

5.4 Trees

A. Tree Survey. A tree survey shall not be required as part of the approval process of the Planned Unit Development (PUD), but shall be required as part of the development applications for those parcels submitted to the TRC and shall be prepared in accordance with the Development Standards attached hereto as Exhibit F and Charleston City Code as outlined by this Agreement. The requirements for such Tree Survey(s) shall be limited to identifying the location, size, and species of trees twenty-four (24") inches or greater DBH (Diameter Breast Height).

B. Tree Preservation and Tree Mitigation. The requirements for tree preservation and tree mitigation within the Transect Zones are defined in Section V of the Development Standards attached hereto as Exhibit F.

5.5 Storm Water Management

The Property in its existing condition drains through a system of freshwater wetlands, drainage ditches, and overland flow towards Church Creek which ultimately flow to the

Ashley River. A map analyzing the drainage basins within the Property is attached hereto as Exhibit H.

It is estimated that all of the two hundred ninety-nine (299) acres of the Property are within the Church Creek Watershed.

Post-development storm water management systems for the Property will be routed through a series of ponds, drainage ditches, swales, and pipes to meet the SCDHEC-OCRM requirements for discharge rates and water quality.

A licensed engineer in the State of South Carolina shall prepare a Storm Drainage Master Plan for approval by the City and the SCDHEC-OCRM prior to the start of construction for any phase of the Project.

The Developer shall cause the design and construction of the storm drainage network to incorporate best management practices that may aid in improving water quality during the Development of the Project property utilizing methods outlined in the Development Standards attached to this Agreement.

5.6 Architecture

A. Residential Design Guidelines. The Developer will establish Residential Design Guidelines for the Project prior to conveying any Lot within the Project property.

B. Design Guidelines for Non-Residential Uses. The Developer will establish Design Guidelines for non-residential uses within the Project prior to conveying any Lot within the Project property.

C. Village Green Architectural Review Board (ARB). The Developer will establish the Village Green Architectural Review Board. This board will have sole jurisdiction for administering the design review and approval process related to the interpretation of the Design Guidelines and the Development Standards, subject to part D, below.

D. Design Review Board (DRB). The Developer agrees that the DRB (or successor board) will have jurisdiction over the review and approval of building plans and site plan involving non-residential uses and those residential uses comprised of 50 units or more that are located on an A Street within the T5 Transect Zone (Urban Center).

5.7 Landscaping

Section V of the Development Standards attached hereto as Exhibit F outline the Landscape Standards by Transect Zone within the Project property.

5.8 Signage and Lighting

Section VI of the Development Standards attached hereto as Exhibit F outline the requirements for signage and lighting by Transect Zone within the Project property.

5.9 Roadways

Section VII of the Development Standards attached hereto as Exhibit F outline the locations and standards for the On-Site Thoroughfares and Off-Site Thoroughfares. These standards specify thoroughfare type, right of way width, pavement width, sidewalks, and street planting requirements.

The Developer acknowledges that the TRC may request as part of the submittal process of development applications to the TRC an AutoTurn Analysis to validate that the street types specified in the Development Standards and their location within each of the Transect Zones ensure sufficient access for emergency vehicles.

5.10 Schedule for Project Development

A. Residential Building Permits. The Parties acknowledge that the development of the residential neighborhoods within the Project will occur in phases. Subject to the provisions of Article 6, the number of residential units to be constructed in any given year via building permits issued by the City shall be limited according to the following schedule:

Village Green -- Schedule of Residential Units		
Development Year - Calendar Year	Residential Units	% of Residential Units
Year 1 - 2009	0	0.0%
Year 2 - 2010	0	
Year 3 - 2011	200	12.5
Year 4 - 2012	200	12.5
Year 5 - 2013	200	12.5
Year 6 - 2014	200	12.5
Year 7 - 2015	200	12.5
Year 8 - 2016	200	12.5
Year 9 - 2017	200	12.5
Year 10 - 2018	200	12.5
Total	1600	100

2

If the number of residential units to be constructed in any given year via building permits is less than those outlined in the above schedule, the number of residential units not

constructed shall carry forward and be available in subsequent years in combination with the number of residential units that are available in that year.

Note: The Project is currently not governed by any building permit allocation program enacted by a governmental authority. If a building permit allocation program is enacted after the Effective Date and during the Term of this Agreement by a governmental authority; the number of residential units to be constructed in any given year via building permits issued by the governing authority shall not be less than those outlined in the above schedule and the Project shall be exempt from any such ordinance.

B. Non-Residential Building Permits. The Parties acknowledge that the Development of the Non-Residential Uses within the Project will occur in phases, and that the issuance of Non-Residential Building Permits within the Project shall only be limited by the completion of the Long Savannah Parkway as outlined in Section B of Article 6.6.

5.11 Declaration of Covenants & Restrictions for the Property

The City hereby acknowledges that this Agreement does not preclude the Developer from recording private covenants, conditions, restrictions, and easements to regulate the development of the Property and to provide for the management of the Development of the Property via the establishment of a Master Association and, as applicable, Sub-Associations in accordance with this Agreement.

5.12 Plats

A. Preliminary Plats. The preparation and review of preliminary plats shall be in accordance, unless amended by this Agreement, with the Technical Review Committee Policies and Procedures attached hereto as Exhibit U.

B. Final Plats. The preparation and review of final plats shall be in accordance, unless amended by this Agreement, with the Technical Review Committee Policies and Procedures attached hereto as Exhibit U.

C. Conditional Plats. The issuance and use of conditional plats, prior to the approval of a final plat, shall be permitted by the City. Approval of a conditional plat shall require the Developer to install all required by public improvements or post a financial guarantee of performance for incomplete public improvements. Approval of a conditional plat will allow for the commencement of lot sales, land transfers, and the ability to obtain building permits; however, no certificates of occupancy shall be issued until all required improvements have been installed and accepted, the final plat has been approved in accordance with the Technical Review Committee Policies and Procedures attached hereto as Exhibit U, and the final plat has been recorded with the Register of Mesne Conveyance of Charleston County.

A conditional plat shall be valid for a period not to exceed two (2) years from the date such approval is granted by the City.

Incomplete public improvements shall be secured by a financial guarantee, such as bank letter of credit, performance bond, or a cashier's check, to the City equal to one hundred twenty five percent (125%) of the cost of completion of such public improvements as certified by the project engineer and approved by the city engineer. The duration of the financial guarantee for a conditional plat shall be for a period not to exceed twenty four (24) months. If no action is taken by the Developer to complete such public improvements, the City, at its option, shall have the discretion to execute the provisions of the financial guarantee to complete the public improvements.

D. Subdivision by Use of Easements. The City, in recognition that this Property is surrounded by wetlands and has a highly irregular shape, shall allow the Developer to subdivide and record plats for proposed and future phases that show an easement of not less than fifty (50) feet ("Access Easement") to residual properties which are designated "FUTURE DEVELOPMENT" or "RESIDUAL ACREAGE" and which do not have any frontage on a public street. The Developer shall not be required to bond the construction of the Access Easement which will be built as a part of the phase being approved by the City. Utilities; including, but not limited to water, sanitary sewer, electric, gas, telephone, cable television, and storm drainage may also be included within the Access Easement to provide access to utilities of the residual parcel.

ARTICLE 6 TRANSPORTATION

6.1 Transportation Overview

A. One of the access points for the Property will be the extension of the Long Savannah Parkway from the West Ashley Circle. Currently, the City is constructing the next phase of the West Ashley Circle, that being the half of the West Ashley Circle on the north side of Bees Ferry Road. When the City completes this portion of the West Ashley Circle, it will allow for the connection of the future Long Savannah Parkway to be constructed from the West Ashley Circle north to serve as an access into the Property. The Village Green Development Agreement and amended Planned Unit Development are part of the Regulating Plan and Development Standards, and approval thereof is being sought concurrently with this Agreement. The construction of the Long Savannah Parkway provides, not only access into the Property, but provides for the interconnectivity that allows traffic to flow from Long Savannah, Village Green, and adjacent neighborhoods such as Grand Oaks to the West Ashley Circle.

B. The acquisition of the right-of-way and construction of the Developer's portion of the Long Savannah Parkway is one transportation project.

C. Long Savannah Parkway.

1. The City agrees that the known development plans for the region, and the ultimate buildout of the Project, requires the construction of the Long Savannah Parkway. A typical section of the parkway and its roundabouts are outlined in the Development Standards attached to this Agreement as Exhibit F.

2. The Developer is responsible for all costs associated with acquiring the right-of-way for, as well as the construction of, the future Long Savannah Parkway, as set forth herein. The Developer shall receive a per unit reduction or credit in the Transportation Contribution fees for the amount of the Developer's contribution to the acquisition of the right-of-way as well as the construction of the future Long Savannah Parkway.

3. If the Developer requests the City to acquire the right-of-way for the future Long Savannah Parkway, with City will do so, provided the Developer agrees to reimburse the City for all costs associated with the right-of-way acquisition and produces evidence satisfactory to the City that it has sufficient funding to repay the City, at settlement or final disposition of litigation, the costs of acquisition, including but not limited to the cost of the right-of-way, appraisal and expert witness fees, reasonable attorneys fees of the City, and if applicable, attorneys fees of the owner(s) of the right-of-way.

4. At the Developer's request, the City shall consider bond financing to fund such acquisition and construction through the issuance of tax-exempt municipal improvement bond debt to pay the costs of right-of-way acquisition, design engineering, permitting and construction.

5. It shall be the responsibility of the Developer to coordinate with Long Savannah Land Development Company, LLC on the design, permitting, funding, and coordinating the construction, within the right-of-way, of two (2) lanes of the Long Savannah Parkway from its at grade intersection with West Ashley Circle to its intersection with the On-Site Thoroughfares depicted on the Regulating Plan attached hereto as Exhibit E. Such costs that may be incurred by the Developer may be funded through the MID Bond Issue, if agreeable to both the City and Developer. If the MID Bonds are not issued, the Developer shall provide funding for the right-of-way acquisition and construction from private funding sources. The Developer shall be responsible for the construction the Long Savannah Parkway as described herein and will be reimbursed for the costs of the acquisition of the right-of-way and construction of the Long Savannah Parkway via the Transportation Contribution fees set forth in Article 6.3 below, as such fees are generated.

6. The construction of the Long Savannah Parkway from its at-grade intersection with West Ashley Circle to its intersection with the On-Site Thoroughfares depicted on the Regulating Plan herein attached as Exhibit E, shall not commence until

and unless the MID Bond Issue referenced in Article 6.2 is issued or other funding is made available for its construction, as contemplated by Article 6.1C.4(b), Article 6.1C.5, and Article 6.2.

7. The Developer shall have no obligation to construct any roads or roadway connections from the Long Savannah Parkway to other neighborhoods or subdivisions outside of Long Savannah and shall not incur any costs associated with such road connections.

8. The construction of the Long Savannah Parkway from Bees Ferry Road to West Ashley Circle and/or the expansion of the Long Savannah Parkway to four (4) lanes as may be dictated by future transportation studies and traffic volumes shall not be the responsibility of the Developer.

6.2 Municipal Improvement District Bonds

In the event that the Developer request the City to utilize the provisions of the Municipal Improvement Act of 1999, codified as Sections 5-37-10 to 5-37-180, Code of Laws of South Carolina, 1976, as amended, and the City is satisfied that the revenues produced thereby will be sufficient to provide the funds to pay for the costs described at Article 6.1C.2, Article 6.1C.5, and Article 6.1C.6 in excess of the County's Roadwise funding. Subject to the issuance of MID bonds, the Developer will consent to imposition of assessments on its property pursuant to the Municipal Improvement Act of 1999 in an amount, together with assessments that Long Savannah Land Company, LLC, has represented it will consent to being imposed on its properties, sufficient to pay all such costs. The Developer will retain a consulting firm nationally recognized as an expert in this field to prepare the assessment study/report which will include all information required by the Municipal Improvement Act of 1999, including the boundaries of the Municipal Improvement District, the Improvements to be constructed therein, the Improvement Plan and the rates and methodology of assessments to be imposed. The cost of the report may be reimbursed from the proceeds of the MID Bonds which the City will use its best efforts to issue. In the event the MID Bonds are not sold, notwithstanding the City's best efforts, the cost described at Article 6.1C.2, Article 6.1C.5, and Article 6.1C.6 in excess of the County's Roadwise funding shall be paid by the Developer. The Developer shall receive a per unit reduction or credit in the Transportation Contribution fees for all costs Developer incurred or paid for the costs described at Article 6.1.

6.3 West Ashley Regional Transportation Projects

A. The Developer will contribute one thousand dollars (\$1,000.00) on a per residential unit basis to the City or its designee towards funding of transportation projects in the West Ashley Region (the "Transportation Contribution") of Charleston County, including but not limited to the Magwood Drive Intersection Improvements at Glenn McConnell Parkway, West Ashley Circle, expansion or further extensions of the

Long Savannah Parkway, and any other projects located outside the limits of the Property and as may be identified by the City.

B. The City acknowledges and hereby agrees that the Developer shall receive a credit of the Transportation Contribution for any costs incurred or paid by the Developer for the costs described at Article 6.1C.1, 2, 3, and 5 and should such costs be included in the MID Bonds, or be paid as set forth in Article 6.1C.4(b) and Article 6.2 herein. The credit shall be applied to the obligation set forth in Article 6.3.D.

C. The Transportation Contribution will be paid on a per residential unit basis within sixty (60) days of a final subdivision plat being recorded with the Register of Mesne Conveyance of Charleston County.

6.4 On-Site Thoroughfares (Internal Roadways)

A. The Developer will be responsible for the design, permitting, and construction of the On-Site Thoroughfares within the Property.

B. The construction of these On-Site Thoroughfares will be phased with the development of the Project.

6.5 West Bridge Road Improvements

A. The Developer will be responsible for the design, permitting, and construction of the roadway improvements for West Bridge Road to the On-Site Thoroughfares within the Project property.

B. The roadway improvements will be limited to the existing right of way for West Bridge Road with no disruption to existing property lines.

6.6 Development Phasing and Transportation Improvements

A. The Developer and City acknowledge and agree that the initial phases of development for the Project will result in development activities within the Project dependent on various access points as described in the updated transportation study which shall ultimately connect to On-Site Thoroughfares within the Project subject to such conditions set forth in this Agreement and subsequent phasing within the Project at the discretion of the Developer.

B. The Developer shall be allowed to phase the development of the Project by utilizing those access points described in the transportation study attached hereto as Exhibit I. The number of residential building permits approved by the City resulting from each access point shall not exceed the number of Residential Units approved for the Project as referenced by the figures in the Transportation Study, attached hereto as Exhibit I. Notwithstanding the foregoing, no more than 105 residential building permits will be issued for properties utilizing existing Grand Oaks accesses and no more than

400 residential permits for properties utilizing West Bridge Road will issues until the Long Savannah Parkway improvements contemplated by Section 6.1 C have been completed. It is the acknowledged intent and agreement of the Parties that none of the intersections identified in the Davenport Traffic Study shall fall below a Level of Service D.

No permits for nonresidential units shall be required to be issued until the completion of the Long Savannah Parkway. Upon completion of the Long Savannah Parkway, the Developer shall only be limited to the number of residential building permits issued for the Project as set forth by the Development Schedule in Section A of Article 5.10 of this Agreement.

6.7 Transportation Study

The Developer retained Davenport Engineering, Inc. to prepare an updated and revised Transportation Study for the Project. The parameters of the study were to assess the traffic impacts and evaluate the access and egress requirements for the Project and to take into account additional infrastructure and access points that have been constructed in the study area since the original transportation study was completed for the Project.

A copy of this report is attached to this Agreement as Exhibit I.

6.8 Mutual Cooperation

A. The City agrees to use its best efforts to obtain funding from local, state, and federal sources for the purposes of improving existing roads and constructing new roads for the development of the region including such roads as identified in the Transportation Study attached hereto as Exhibit I.

B. The Developer agrees that it will cooperate with the City, Charleston County, South Carolina Department of Transportation, Berkeley-Charleston-Dorchester Council of Governments, and other private landowners in this effort by the City of Charleston.

ARTICLE 7 FACILITIES AND SERVICES

7.1 Roadways

Section VII of the Development Standards attached hereto as Exhibit F outline the standards for the On-Site Thoroughfares and Off-Site Thoroughfares to serve the Project.

These roadways as approved by the City for various phases of the Project will be public, utilize material types outlined in the Development Standards, and be constructed in

accordance with applicable laws and the Charleston City Code as the same may from time to time be amended.

The City agrees to maintain such roadways in a manner consistent with and at least equal to other roadways within the City.

Developer, with approval by the City and in compliance with the encroachment approval process, may enhance the On-Site Thoroughfares and Off-Site Thoroughfares with additional landscaping and improvements in order for the streetscape associated with these roadways to be maintained to the standards of the Developer. The funding and maintenance for such enhancements shall be the responsibility of the Developer or by an entity established by the Developer such as a Property Owners Association.

The City and Developer agree to establish regulations, procedures, and a schedule for street sweeping to allow City equipment to properly clean the On-Site Thoroughfares within the Project.

7.2 Water and Wastewater

A. The City shall request the Charleston Water System (CPW) to provide the service and facilities of water and wastewater with sufficient availability and capacity to serve the number of residential units and the square footage of non-residential uses approved by this Agreement in a manner as not to disrupt or hinder the Development Schedule throughout the term of this Agreement.

B.. The Developer shall be responsible for the costs associated with any extensions to provide water and wastewater services to the Project property which will be installed in accordance with the CPW policies and procedures in effect at the time those extensions are approved through a permitting process with CPW.

C.. The Developer shall pay to CPW the scheduled impact fees due to CPW for water and wastewater services to the Project as would be required of any other customer of CPW.

7.3 Electric and Gas

A. The Project is located in the service area of South Carolina Electric and Gas Company, a subsidiary of the SCANA Corporation.

B. The City shall upon receipt of the substation plans for the site identified on the Regulating Plan attached hereto as Exhibit E expedite the review and approval of such substation within the Project.

7.4 Telephone

The service provider will be determined by the Developer.

7.5 Cable Television

The service provider will be determined by the Developer.

7.6 Solid Waste Disposal (Garbage Collection and Trash Collection)

Solid wastes, including, garbage and trash pick-up services, are to be provided by the City in accordance with applicable laws and the Charleston City Code, as the same may from time to time be amended. The collection dates shall be coordinated with the Environmental Services Administration Division of the City of Charleston.

7.7 Police and Fire Protection

The Project shall be served by the City of Charleston Police Department and the City of Charleston Fire Department.

7.8 Emergency Medical Services

The Project shall be served by Charleston County Emergency Services in coordination with the City of Charleston.

7.9 On-Street Parking

Section VII of the Development Standards provides for On-Site Thoroughfare Types with on-street parking within the Project.

7.10 Parks

The Regulating Plan for the Project attached to this Agreement as Exhibit E makes provision, although not required by this Development Agreement, for community parks, open spaces, and common areas for recreational use within the Project.

The Developer hereby acknowledges that the community parks, open spaces, and common areas are to be maintained by the Developer or by an entity established by the Developer such as a Property Owners Association.

The City hereby acknowledges that the city parks identified on the Regulating Plan are to be maintained by the City and shall be maintained in a manner consistent to and at least equal to the City's park adjacent to the K-8 grade public school on Daniel Island.

Developer, with approval by the City, may enhance the city parks with additional landscaping and improvements in order for the city parks to be maintained to the standards of the Developer. The funding and maintenance for such enhancements shall be the responsibility of the Developer or by an entity established by the Developer such as a Property Owners Association.

ARTICLE 8 ENVIRONMENTAL

8.1 General Requirements

The Project shall be subject to and developed in accordance with the Charleston City Code and any other applicable laws governing the development of property unless otherwise set forth by the Development Standards or other documents attached to this Agreement; including, without limitation those applicable to wetlands, wetland buffers, tree protection and preservation, and roadway buffers.

8.2 Wetlands

The Property to be developed pursuant to this Agreement contains approximately 7.89 acres of Freshwater Wetlands as delineated by Newkirk Environmental Inc. and shown on the Wetland Survey by Ecological Mapping Services attached as Exhibit M.

(a) The wetland delineation of the Property was verified by the United States Army Corps of Engineers which is described in a letter from the United States Army Corps of Engineers attached as Exhibit N. Each site plan submittal shall include verification that the delineated wetland line for that particular land parcel is current as of the date of the submittal.

(b) Wetland buffers will be established in accordance with the Charleston City Code and any other applicable Laws governing the development of the Project property.

(c) The Developer, prior to development of a parcel containing wetlands, shall impose restrictive covenants to protect the wetlands and wetland buffers in accordance with Charleston City Code and any other applicable laws governing the development of the Project property.

ARTICLE 9 CULTURAL RESOURCES

9.1 Cultural Resource Assessment

A Cultural Resource Assessment of the Property was conducted by Chicora Foundation, Inc., in accordance with guidelines of the State Historical Preservation Office of the South Carolina Department of Archives and History.

A copy of the report is attached with this Agreement as Exhibit O.

9.2 Cultural Resources Survey

A Cultural Resources Survey of the Property was conducted by Chicora Foundation, Inc. in accordance with guidelines of the State Historical Preservation Office of the South Carolina Department of Archives and History.

A copy of the report is attached with this Agreement as Exhibit P.

ARTICLE 10 CIVIC CONSIDERATIONS

10.1 Schools

Charleston County School District Educational Contribution. The Developer will provide an educational contribution of four hundred dollars (\$400.00) per residential unit to the Charleston County School District (the "School District") throughout the development of the Project. The contribution is to be utilized for the school(s) within the Village Green and Long Savannah Project area at the discretion of the School District Board of Trustees and will be paid on a per residential unit basis within sixty (60) days of a final subdivision plat being recorded with the Register of Mesne Conveyance of Charleston County.

10.2 Parks

A. Park Site(s). The Developer has reserved up to twenty five (25) acres within the Project for active public park(s) which will be conveyed at fair market value to the City or its designee.

B. Conveyance. The conveyance to the City, or its designee, shall occur no later than ninety (90) days after the recording date for a final subdivision plat(s) for the area immediately adjacent to and including the park site. The conveyance of this site shall be subject to necessary easements for the Developer for access to other sites within the Project, utilities serving the Project such as water, sanitary sewer, electric, natural gas, telephone, cable television, internet, and/or other utilities, storm drainage, bicycle paths, pedestrian paths, and sidewalks. The funding for any improvements that are constructed within the easements referenced above and any maintenance or repairs for such improvements shall be the responsibility of the Developer. The form of the easements and recorded restrictions shall be subject to the approval, which approval shall not be unreasonably denied, of the City. or its designee.

C. Alternative Use. If the City does not have a need for the property as a Park, but instead wants to use the property for an alternative City use, the alternative use must first be approved by the Developer, which permission for such use will not be unreasonably withheld, provided the proposed City use is compatible with the

surrounding neighborhood uses. The specific site shall be mutually agreed upon the Parties.

10.3 Workforce Housing

The Developer as a measure to promote the ownership or occupancy of workforce housing opportunities within the City agrees to the terms as outlined in Exhibit S.

10.4 Minority Business Enterprise Policy / Women's Business Enterprise Policy

The Developer agrees to establish a Minority Business Enterprise Program (MBE) and a Women's Business Enterprise Program (WBE) during its Development of the Project in order to foster the participation of MBE's and WBE's to have equal opportunity to participate in the Project's contracts, subcontracts, and procurements.

A. Minority Business Enterprise (MBE).

1. A business, regardless of size, which is owned, operated and controlled by minority group members. "Minority group members" are individuals who are citizens of the United States and are African-American, Hispanic-American, Native-American, Asian-American, or any other individuals defined as a minority by the Small Business Administration.

2. Ownership by minority individuals means that the business is not less than fifty one percent (51%) owned by one or more such individuals or in the case of a publicly owned business not less than fifty one percent (51%) of the stock, and those minority group members control the management and are involved in the daily operations of the business with such business providing proof in writing of the appropriate ownership to the Developer in the form of certain specified corporate documents as required by the Developer.

3. Minority businesses shall include all contractors, subcontractors, and service providers related to any and all infrastructure, residential, and commercial construction. Qualifying businesses shall further include those related to land improvements and the maintenance of said land improvements.

B. Women's Business Enterprise (WBE).

1. A business, regardless of size, which is owned, operated and controlled by non-minority women group members. "Non-Minority Women group members" are individuals who are female citizens of the United States.

2. Ownership by non-minority women individuals means that the business is not less than fifty one percent (51%) owned by one or more such individuals or in the case of a publicly owned business not less than fifty one percent (51%) of the stock,

and those non-minority women group members control the management and are involved in the daily operations of the business with such business providing proof in writing of the appropriate ownership to the Developer in the form of certain specified corporate documents as required by the Developer.

3. Women businesses shall include all contractors, subcontractors, and service providers related to any and all infrastructure, residential, and commercial construction. Qualifying businesses shall further include those related to land improvements and the maintenance of said land improvements.

C. Participation Goal. The Developer will make good faith efforts to promote that MBE's and WBE's have maximum practicable opportunity to participate in Development of the Project; thereby, establishing a combined twenty percent (20%) MBE and WBE Participation Goal. Participation Goals may be adjusted depending on the availability of experienced, qualified, properly licensed, bondable, and adequately insured MBE's and WBE's with the financially ability to perform all or part of the contract at competitive pricing for work within the Project.

D. Compliance Requirements. The Developer agrees, on a best effort basis, to comply with the requirements of Section 2-268 of the Charleston City Code in effect as of the Effective Date of this Development Agreement entitled, "Plan for the utilization of disadvantaged business enterprises (DBEs) and women business enterprises (WBEs)" in the Development of this Project.

ARTICLE 11 DEFINITIONS

11.1 Defined Terms

The following defined terms shall have the meaning set forth below for each such term.

A. "Act" means The South Carolina Local Government Development Agreement Act, Sections 6-31-10 through 6-31-160, The Code of Laws of South Carolina, 1976 as amended.

B. "Adoption Date" means the date, _____, 2015, the City Council adopted Ordinance Number _____ in accordance with the Act and Charleston City Code.

C. "Agreement" means this Development Agreement, including the recitals and exhibits attached hereto.

D. "Board of Zoning Appeals" or "BZA" means the duly appointed Board of Zoning Appeals of the City of Charleston, which hears and decides on variances to the Charleston City Code.

- E. “Charleston City Code” means the Code of the City of Charleston in effect as of the date of this Agreement.
- F. “City” means the City of Charleston, a municipal corporation organized and existing under the laws of the State of South Carolina.
- G. “Comprehensive Plan” means the plan adopted pursuant to S.C. Code, Section , 6-29-310,as of the Effective Date.
- H. “Density” means the number of Residential Units per acre of land area. Density is calculated by dividing the number of Residential Units on a site by the gross area of highland and freshwater wetlands.
- I. “Developer” means HPH Properties, LP, a South Carolina limited partnership together with all subsidiaries thereof and other entities, which have legal or equitable interests on the Effective Date in any of the Property as described in Article 3 and includes HPH Properties, LP’s successors in interest or successors in title and/or assigns by virtue of assignments or other instrument pursuant to Article 12.8 hereof.
- J. “Development” means the changing of land characteristics through planning, redevelopment, construction, subdivision into parcels, and similar development uses as are authorized by this Agreement. This definition does not include commercial timbering, which may occur on Undeveloped Lands during the Term of this Agreement.
- K. “Development Parcel” means any tract of land on which Development may occur, including platted Lots and unplatted parcels, but excluding street right-of-ways.
- L. “Development Permit” includes building permit, zoning approval, subdivision approval, special exception, variance, certificate of occupancy, water and wastewater permits to construct, SCDOT encroachment permits, DHEC-OCRM land disturbance permit, and any other official action of Federal, State, and Local Government having the effect of permitting the Development or use of the Property.
- M. “Development Standards” mean the minimum criteria that define the requirements for Lots or Development Parcels.
- N. “Facilities” means major capital or community improvements including, but not limited to, transportation, sanitary sewer, storm water control, and potable water.
- O. “Freshwater Wetlands” means those areas of land that are inundated or saturated by fresh water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions and are delineated as freshwater wetlands by the U.S. Army Corps of Engineers.

P. "Impact Fees" means and refers to all fees, charges, dedications, obligations, or exactions of any kind whatsoever that may be imposed by the City under existing City Ordinances, existing or future state statutes, or as a matter of legal or equitable right arising, directly or indirectly from any Development of the Property.

Q. "Land Development Regulations" means ordinances and regulations enacted by the City of Charleston or the State of South Carolina for the regulation of any aspect of Development and includes City of Charleston zoning, subdivision, building construction, occupancy, or sign regulations or any other regulations controlling the Development or use of the Property.

R. "Law" means all ordinances, resolutions, regulations, comprehensive plans, Land Development Regulations, policies and rules, custom and usage (formal and informal) adopted by the City affecting the Development of property and includes laws governing permitted uses of the Property, governing density, and governing design, improvement, and construction standards and specifications.

S. "Local Government" means the City.

T. "Lot" means a designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon and is recorded with the Register of Mesne Conveyance of Charleston County.

U. "Material Breach" includes, but is not limited to, the dissolution, declaration of bankruptcy, or the appointment of a receiver (voluntary or involuntary) of, by or for Owner or Developer, the failure of Owner or Developer to pay any sums to be paid by it or them under this Agreement, the failure to transfer lands required by this Agreement to the applicable grantee, or the provision of substantially inaccurate information pertaining to or required by this Agreement by Owner or Developer, or their respective successors and assigns.

V. "Open Space" means an area that is not divided into building lots, streets, driveways, parking lots or rights-of-way and is intended to provide light and air, and is designed for either environmental resource protection, wildlife habitats, scenic views, common area, or recreational purpose as allowed by the Development Standards and this Agreement.

W. "Parties" means the Developer and City.

X. "Parcel" means any of those tracts of Property that are identified in Exhibit A, as same may be specifically numbered and/or identified by the filing of a subdivision application.

Y. "Planning Commission" means the planning commission of the City.

Z. "Project" is the Development that will occur within and upon the Property described and identified in Exhibit A.

AA. "Property" means the parcels of land described and identified in Exhibit A.

BB. "Residential Unit" means a building or portion of it designed and used for residential occupancy by a single household and that includes exclusive sleeping, cooking, eating, and sanitation facilities.

CC. "Salt Marsh" means those areas of land that are transitional areas between land and water, occurring along the intertidal shore of estuaries and sounds where salinity (salt content) ranges from near ocean strength to near fresh in upriver marshes.

DD. "Subdivision Plat" means a recorded graphic description of property prepared and approved in compliance with the Charleston City Code as modified by this Agreement.

EE. "Undeveloped Lands" in existence on the date of execution of this Agreement is the Property indicated in Exhibit A. Undeveloped Lands shall, during the term of this Agreement, include only Property that either (i) has not received any plat approval or (ii) has received preliminary, conditional, or final plat approval but fewer than one hundred percent (100%) of the Lots or parcels depicted thereon have been sold and fewer than ninety percent (90%) of the potential houses on such platted Lots or parcels (or less than ninety five percent (95%) of the buildable commercial square footage on a plat of commercial property) have been constructed.

FF. "Vested Rights Act" means The Vested Rights Act, Section 6-29-1510 et seq., The Code of Laws of South Carolina, 1976 as amended.

GG. "Vested Units" means the total number of Residential Units, defined as new single family residential units (attached and/or detached units), new multi-family residential units (apartments, condominiums, etc.), and new commercial mixed-use units which may be approved for all Undeveloped Lands.

HH. "Water Bodies" means property determined to be under water no less than eleven (11) months of the year and under such standing water for a continuous period of no less than nine (9) months of the year.

II. "Workforce Housing Unit" means a residential unit that is purchased or rented by a qualified household and meets the requirements as defined by this Agreement.

JJ. "Zoning Ordinance" means Ordinance Number _____ adopted on _____, 2015, adopting the Village Green Development Standards..

ARTICLE 12

TERMS AND CONDITIONS

12.1 Severability

Subject to the provisions of S.C. Code, Sections 6-31-150, if any word, phrase, sentence, paragraph or provision of this Agreement shall be finally adjudicated to be invalid, void, or illegal, it shall, after consultation of the Parties, be deleted or modified in the lawful manner least likely to affect materially the intent and provisions of this Agreement, and in no way shall such deletion or modification invalidate any other provision hereof.

12.2 Merger

A. This Agreement, coupled with its Exhibits that are incorporated herein by reference, shall state the final and complete expression of the Parties' intentions related to the development of the property. In return for the respective rights, benefits and burdens undertaken by the Parties, the Developer shall be, and is hereby, relieved of obligations imposed by future land development laws, ordinances and regulations, except those which may be specifically provided herein.

B. The Parties hereto agree to cooperate with each other to effectuate the provisions of this Agreement and to act reasonably and expeditiously in all performances required under the Agreement.

C. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action.

12.3 Governing Laws

This Agreement shall be construed and enforced in accordance with the Laws of the State of South Carolina.

12.4 Default and Remedies

A. Each Party recognizes that the other Party would suffer irreparable harm from a material breach of this Agreement and that no adequate remedy at law exists to enforce this Agreement.

B. The Parties agree that any nonbreaching Party who seeks enforcement of the Agreement is entitled to the remedies of injunction and specific performance but not to any other legal or equitable remedies including, but not limited to, damages; provided that the Developer shall not forfeit its right to just compensation for any violation by the City of the Developer's Fifth Amendment rights and provided further that the City retains

the right to withhold processing development applications, to withhold and/or pull permits or issue stop work orders for violations of this Agreement and to sue for breach of contract and resulting damages upon the failure to timely pay any sums due under this Agreement.

C. Alternative Dispute Resolution – Nonbinding Mediation. In the event that a material dispute arises between the parties concerning any aspect of this Agreement, and/or amendments thereto, that dispute will be resolved by the parties submitting the dispute to mediation, by selecting a professional mediator taken from the list of approved mediators maintained by the South Carolina Bar Association. If the mediation is unsuccessful in resolving the dispute, the parties agree to submit the matter in the form of a Declaratory Judgment action, to a Special Referee authorized to hear the dispute pursuant to the South Carolina Rules of Civil Procedure, Rule No. 53. Any appeal from the decision of the Special Referee shall be directly to the Supreme Court, pursuant to R.53(e).

D. The City will look solely on to the Developer as to any rights it may have against the Developer under this Agreement, and hereby waives any right to assert claims against limited partners or members of the Developer and further agrees that no limited partner, member or agent of the Developer has any personal liability under this Agreement.

E. The Developer agrees to look solely to the City's assets as to any rights it may have against the City under this Agreement, and hereby waives any right to assert claims for personal liability against individuals acting on behalf of the City, its City Council members, agencies, boards or commissions.

F. In any action at law or in equity to enforce any provision of this Agreement, the prevailing Party shall be entitled to recover reasonable attorney's fees and costs through any final appeal.

12.5 Force Majeure

A. If by reason of Force Majeure, either party hereto shall be rendered unable, in whole or in part, to carry out its obligations under this Agreement, then and in that event, said party shall give notice in writing to the other party within a reasonable time thereafter giving the full particulars of such Force Majeure. The obligations of the party so affected shall be thereupon suspended and such suspension shall continue during the period in which such inability continues; provided, however, the disabled party shall endeavor with all reasonable dispatch to remove or overcome such an inability.

B. The term "Force Majeure" as employed herein shall mean acts of God, strikes, lock-outs, or other industrial disturbances, acts of a public enemy, orders of any kind of the Government of the United States or the State of South Carolina or any military authority, insurrection, riots, epidemics, landslides, earthquakes, fires, storms,

hurricanes, floods, washouts, droughts, arrest and restraints of government and people, civil disturbances, explosions, breakage or damage to machinery, canals, tunnels or pipelines, and inability of other party to perform under the terms of this Agreement for any reason or cause not reasonably within the control of the party claiming such inability.

12.6 Recording

The Developer shall record the Agreement with the Register of Mesne Conveyance of Charleston County within fourteen (14) days after execution of this Agreement.

The Parties agree that due to the size and volume of certain exhibits that the recorded copy of this Agreement may include descriptions of certain exhibits. A complete, executed copy of this Agreement, with all Exhibits, shall be maintained by the City and made available to the public when so requested.

12.7 Third Parties

This Agreement shall not be interpreted to create or bestow any rights, remedies, or obligations on persons or entities that are not Parties or successors and assigns to this Agreement.

12.8 Successors and Assigns

This Agreement is binding upon and shall inure to the benefit of all personal representatives, successors in interest, and assigns of the Parties of this Agreement.

12.9 Transfer of Property

The Developer, in that this Agreement serves as a restrictive covenant on the Property, may assign this Agreement with all rights provided herein to any third party without approval by the City through conveyance of all or any portion of the Property, formation of a new legal entity, or otherwise at the sole discretion of the Developer.

12.10 Release of Developer

The Developer, in the event of a sale or other conveyance of all or any portion of the Property, shall be released from compliance with the conditions set forth by this Agreement for the property sold or conveyed by the Developer.

12.11 Agreement to Run with the Land

This Agreement shall be recorded as an encumbrance on the Project property and shall be deemed to run with the land.

12.12 Estoppel Certificate

A. The City, upon request in writing from the Developer, will provide a certificate in recordable form that with respect to the portion of the property described in the request, there are no violations or breaches of this Agreement except as otherwise described in the Certificate. Any such request shall be accompanied by a proposed form of estoppel certificate. The City will respond to such a request within thirty (30) days of the receipt of the request, and may employ such professional consultants, municipal, City and state agencies and staff as may be necessary to assure the truth and completeness of the statements in the certificate.

B. The certificate issued by the City will be binding on the City in accordance with the facts and statements contained therein as of its date. No claim or action to enforce compliance with this Agreement may be brought against the Developer or its assignees properly holding rights hereunder, alleging any violation of the terms and covenants affecting such portion of the property except as otherwise described in the certificate.

C. If the City does not respond to such request within forty-five (45) days of the time of its receipt, the portion of the property described in the request will be deemed in compliance with all of the covenants and terms of this Agreement. A certificate of such conclusion may be recorded by the Developer, including a copy of the request and the notice of receipt and it shall be binding on the City as of its date and such notice shall have the same effect as a certificate issued by the City in accordance with this Agreement.

12.13 Construction of the Agreement

This Agreement should be construed so as to effectuate the public purpose of settlement of disputes, while protecting the public health, safety and welfare; including, but not limited to ensuring the adequacy of facilities and compatibility between developed and undeveloped lands.

12.14 Mutual Release

At the time of, and subject to (i) the expiration of any applicable appeal period with respect to the approval of this Agreement without any appeal having been filed or (ii) the final determination of any court upholding this Agreement; whichever occurs later, and expecting the Parties' respective rights and obligations under this Agreement, Developer, on behalf of itself and Developer's partners, officers, directors, employees, agents, attorneys, consultants, hereby releases the City and the City's council members, officials, employees, agents, attorneys, and consultants, and the City, on behalf of itself and the City's council members, officials, employees, agents, attorneys, and consultant, hereby releases Developer and Developer's partners, officers, directors, employees, agents, attorneys, consultants, from and against any and all claims, demands, liabilities, costs, expenses of whatever nature, whether known or unknown, and whether liquidated or contingent, arising on or before the date of this Agreement in

connection with the Property or the application, processing or approval of the Project; provided, however, that each party shall not be released from its continuing obligation to comply with the law, including the Charleston City Code.

12.15 State and Federal Law

The Parties agree, intend and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. In the event state or federal laws or regulations, whether in effect as of the Effective Date of this Agreement or adopted after the Effective Date of this Agreement, prevent or preclude compliance with one or more provisions of this Agreement, the provisions of this Agreement shall be modified or suspended by mutual agreement of the Parties as may be necessary to comply with state or federal laws or regulations.

The Parties further agree that if any provision of this Agreement is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect.

12.16 No Waiver

The failure of a Party to exercise any right under this Agreement unless expressly stated by the Party waiving the right shall not affect the right of such Party to exercise such right as to a similar matter at some future time.

12.17 Entire Agreement

This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This agreement may not be modified or amended except by written agreement by the Parties.

12.18 Notices

All notices hereunder shall be given in writing by United States mail, certified, return receipt requested, in which case notice shall be deemed to occur on the certified date of delivery or rejection of delivery:

Notice to the Developer shall be to:

HPH Properties, LP
1412 Ashley River Road
Charleston, South Carolina 29407
Telephone: (843) 571-2332
Facsimile: (843) 571-4844

With copy to:

Mr. Lucas C. Padgett, Esquire
McNair Law Firm, P.A.
100 Calhoun Street, Suite 400
Charleston, South Carolina 29401
Telephone: (843) 723-7831
Facsimile: (843) 722-3227

Notice to the City shall be to:

City of Charleston
Attn: Director of Planning, Preservation, and Sustainability
75 Calhoun Street
Charleston, South Carolina 29401
Telephone: (843) 958-6473
Facsimile: (843) 724-3772

With copy to:

City of Charleston
Attention: Deputy Corporation Counsel
50 Broad Street
Charleston, South Carolina 29401
Telephone: (843) 724-3730
Facsimile: (843) 723-3706

The address for any party or person may be changed by proper notice to the other parties or persons involved.

12.19 Execution of the Agreement

This Agreement may be executed in multiple counterparts as originals or by facsimile copies of the executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party.

12.20 Statement of Required Provisions

In accordance with S. C. Code § 6-31-60 (A) of the South Carolina Local Government Development Act:

1. A legal description of the property subject to this Agreement is attached as Exhibit _____. The legal and equitable owners of this property are _____.
2. The duration of this Agreement is five years.
3. The development uses permitted on the property, including densities, building intensities and heights are as set forth in the Village Green Development Standards attached to this Agreement as Exhibit ____, and include residential, commercial and institutional uses. The population density, based on the most recent census data, is anticipated to be _____ people.
4. The development contemplated by this Agreement will require police, fire, emergency medical, sanitation, recreation, water and sewer, drainage, roads, schools and utilities. The City of Charleston will provide police, fire, sanitation and recreation facilities and drainage and utility services. Drainage facilities, constructed to City standards, will be built by the Developer as development proceeds. Charleston County will provide emergency medical services to the property. The Charleston Water System (CWS) will provide water and sewer service to the property. The developer is responsible for constructing water and sewer infrastructure to CWS standards and conveying the infrastructure to CWS. The developer will be responsible for the construction of roads to City standards and the conveyance thereof to the City and the improvement of roads and intersections as set out in the Agreement. The Charleston County School District will provide schools to serve the property. Land for a park will be made available for purchase by the City, at the election of the City. A School Contribution Fee will be collected to assist in meeting school requirements for the property. SCE&G will provide electricity and gas to the property. Other utilities providers (cable, telephone etc) will be selected by the developer and their installations coordinated as subdivisions occur.

5. The Village Green Development Standards incorporate buffer requirements for critical areas. The requirements of the City's Stormwater Master Plan for the Church Creek Watershed will be adhered to. The Village Green Development Standards contain management practices to improve water quality during development that will be adhered to.
6. Development permits needed are set forth in Section 4.4 A and B of the Agreement.
7. The development proposed and authorized by the Agreement is consistent with the City's Comprehensive Land Use Plan (Century V) and land development regulations, as amended through the date of this Agreement.
8. Though the Developer does not plan to develop areas of the property previously used for phosphate mining, the Agreement requires the Developer to distribute radon-preventive building guidelines to builders and other developers involved in construction activities should development occur in areas where phosphate mining was conducted.
9. A Cultural Assessment and Cultural Survey was conducted in accordance with guidelines of the State Historic Preservation Office of the South Carolina Department of Archives and History and are attached to this Agreement as Exhibits __ and __. The Developer has entered into a Memorandum of Understanding with the Red Top Community Improvement Association to protect and improve conditions in the Red Top Community. That MOU is attached to this agreement as Exhibit ____.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, this Agreement has been executed by the Parties on the day and year first above written.

Witness:

CITY OF CHARLESTON

By: _____
Joseph P. Riley, Jr.
Mayor

By: _____

Clerk of Council

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within named City of Charleston, by Joseph P. Riley, Jr., its Mayor, and by _____, its Clerk of Council, sign and seal the within written Development Agreement, and as the act and deed of the City of Charleston deliver the same, and that (s)he with the other witness subscribed above witnessed the execution thereof.

ATTEST:

Clerk of Council

SWORN to before me this
_____ day of _____, 2015

Notary Public for _____

My Commission Expires: _____

IN WITNESS WHEREOF, this Agreement has been executed by the Parties on the day and year first above written.

Witness:

HPH PROPERTIES, LP

By: _____
Preston V. Hipp, Jr.
General Partner

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within named HPH Properties, LP, by _____, its General Partner, sign and seal the within written Development Agreement, and as the act and deed of HPH Properties, LP deliver the same, and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN to before me this
_____ day of _____, 2015

Notary Public for _____

My Commission Expires: _____

EXHIBITS

Exhibit A	Boundary Survey and Legal Description of the Property
Exhibit B	Not Applicable
Exhibit C	Not Applicable
Exhibit D	Not Applicable
Exhibit E	Regulating Plan
Exhibit F	Development Standards
Exhibit G	Mix of Uses Chart
Exhibit H	Drainage Basin Analysis prepared by Seamon, Whiteside and Associates
Exhibit I	Transportation Study
Exhibit J	Map(s) of Long Savannah Parkway and West Ashley Circle
Exhibit K	Not Applicable
Exhibit L	Not Applicable
Exhibit M	Wetland Survey by Newkirk Environmental & Ecological Mapping Services
Exhibit N	Wetland Verification Letter from the U.S. Army Corps of Engineers
Exhibit O	Not Applicable
Exhibit P	Not Applicable
Exhibit Q	Not Applicable
Exhibit R	Not Applicable
Exhibit S	Workforce Housing Districts
Exhibit T	Charleston City Code (Applicable Ordinances and Land Development Regulations)
Exhibit U	City of Charleston Technical Review Committee Procedure Manual (Published January 1990, Revised June 2007)
Exhibit V	Ordinance Number _____ adopted on _____, 2015